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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,422	12/29/2000	James Allen Cox	1100.1130101	7848

128 7590 09/25/2003

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[REDACTED] EXAMINER

LEUNG, QUYEN PHAN

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2828

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/751,422	COX ET AL. <i>jl</i>	
	Examiner	Art Unit	
	Quyen P. Leung	2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 June 2003.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21,24,25,27-29,31 and 45-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 24,25,27-29,31 and 45-49 is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
- Certified copies of the priority documents have been received.
  - Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a)  The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. In response to applicant's amendment filed 6/24/03, claims 22, 23, 26 and 30 have been canceled and claims 24-25, 27-28, 31 amended. Claims 1-21, 24-25, 27-29, 31, 45-49 are pending. Some of the previously indicated allowed claims are hereby withdrawn in favor of a new rejection based on newly found art. Examiner regrets any inconvenience this may have caused.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-13 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Cox et al(WO 98/57402). Cox et al discloses the claimed invention. Note figures 3 and 7 which illustrate in particular the cladding or buffer layer having a sufficiently low

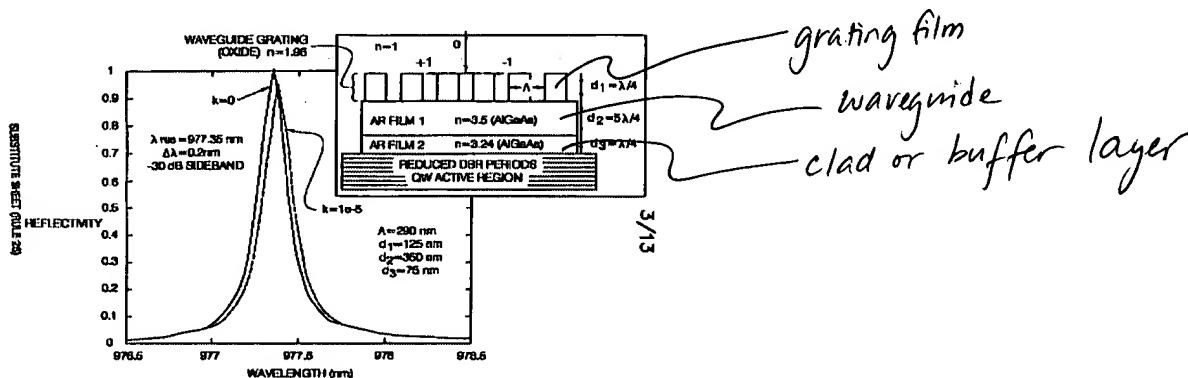


Fig.3

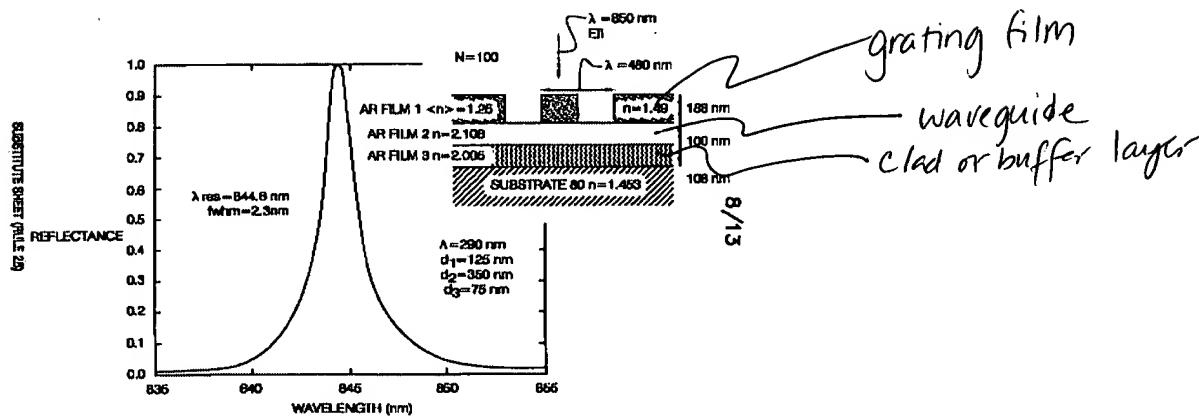
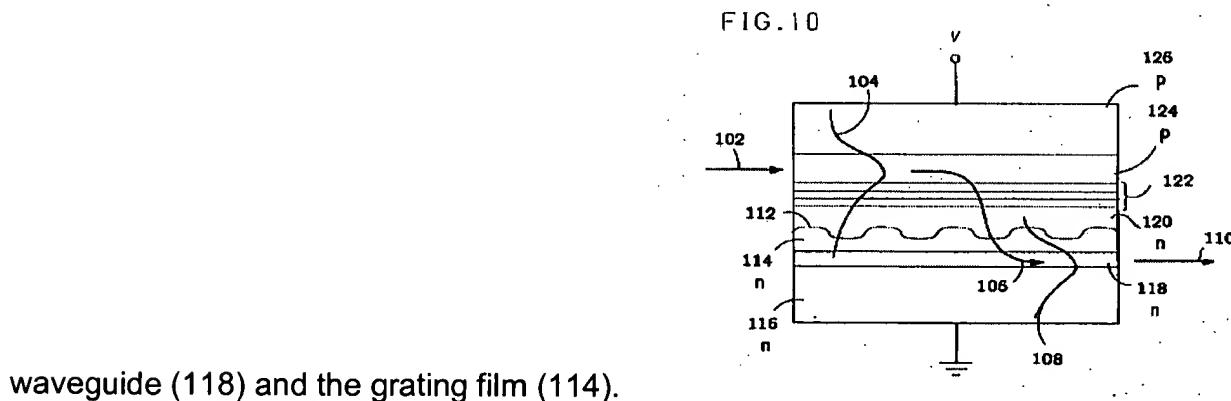


Fig. 7

refractive index relative to the refractive index of the waveguide. Further note page 6-7 which disclose that the figures 3 and 7 are to be used in the optoelectronic device of figures 5 and 6, respectively.

4. Claims 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Alferness et al (4,904,045). Alferness et al discloses the claimed invention. Note the



waveguide (118) and the grating film (114).

5. Claims 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Congdon et al (5,673,284). Congdon et al discloses the claimed invention. Note for example figure 5b which illustrates the waveguide (572) and the grating film (524).

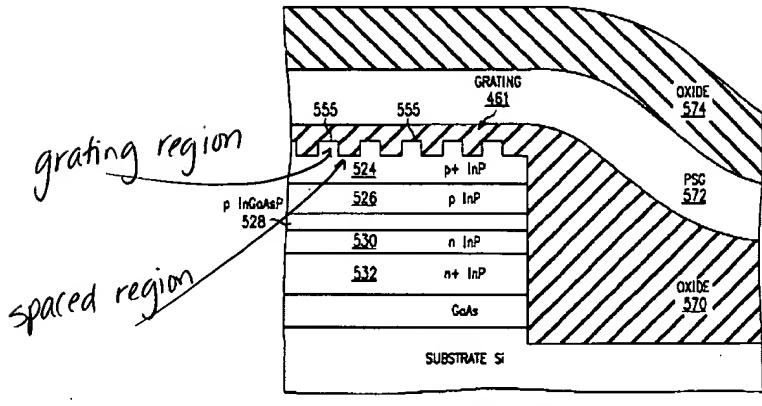


FIG. 5b

### **Allowable Subject Matter**

6. Claims 24-25, 27-29, 31 and 45-49 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: The cited prior art do not teach or fairly suggest a device comprising along with all the other claimed features the front side of the second substrate being bonded to the front side of the first substrate, the front side of the second substrate having a resonant reflector thereon and the front side of the first substrate having a part of the optoelectronic device thereon.

### **Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quyen P. Leung whose telephone number is (703) 308-0545. The examiner can normally be reached on 8:30-5:00, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Quyen P. Leung  
Primary Examiner  
Art Unit 2828

QPL